JUDICIAL PANEL ON HI MULTIDISTRICT LITIGATION

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DOCKET NO. 1634

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE PEANUT CROP INSURANCE LITIGATION

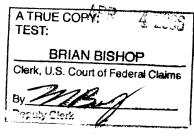
Texas Peanut Farmers, et al. v. U.S.A., United States Court of Federal Claims, C.A. No. 1:03-445

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL

## ORDER DENYING TRANSFER

Before the Panel is a motion brought, pursuant to 28 U.S.C. § 1407, by plaintiffs in a United States Court of Federal Claims action (*TPF*). Movants ask the Panel to transfer *TPF* to the Eastern District of North Carolina for inclusion in the MDL-1634 proceedings centralized there before Judge Malcolm J. Howard. The Court of Claims is currently under an appellate mandate to transfer the claims of *TPF*'s constituent plaintiffs to the federal districts (apparently as many as fourteen) where the various *TPF* plaintiffs should, under the relevant jurisdictional statute, have brought their claims. Entry of a Court of Claims order enforcing this mandate would create new actions pending in federal district courts. This presumably accounts for the *TPF* plaintiffs' alternative request to "issue as many as 14 separate orders transferring the cases to the transferee district...," even though at this point in time there are no such cases yet pending in district courts that could be subject to Section 1407 transfer by the Panel for inclusion in the MDL-1634 pretrial proceedings. Defendant United States of America opposes both of the plaintiffs' requests.

On the basis of the papers filed and hearing session held, the Panel finds that Section 1407 transfer of TPF to the Eastern District of North Carolina is inappropriate at this time. Given the unique circumstances under which this matter has come before the Panel, we are persuaded that denial of transfer is appropriate in order to permit the Court of Claims to implement the existing mandate of the appellate court. If implementation of the mandate results, as contemplated, in the creation of new civil actions which share questions with previously centralized MDL-1634 actions and which are pending in federal district courts other than the Eastern District of North Carolina transferee district, then procedures are available whereby the Panel can initiate the process of Section 1407 transfer without further delay. See Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).



MULTIDISTRICT LITIGA

by Ileave of the Judge

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IT IS THEREFORE OR DERED that the motion for Section 1407 transfer of this action is denied.

FOR THE PANEL:

Wm. Terrell Hodges

at sementation

Chairman

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## UNITED STATES OF AMERICA JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

CHAIRMAN: Judge Wm. Terrell Hodges United States District Court Middle District of Florida

**MEMBERS:** Judge John F. Keenan United States District Court Southern District of New York

Judge D. Lowell Jensen United States District Court Northern District of California

Judge J. Frederick Motz United States District Court District of Maryland

Judge Robert L. Miller, Jr. United States District Court Northern District of Indiana

Judge Kathryn H. Vratil United States District Court District of Kansas

Judge David R. Hansen United States Court of Appeals Eighth Circuit DIRECT REPLY TO:

Michael J. Beck Clerk of the Panel One Columbus Circle, NE Thurgood Marshall Federal Judiciary Building Room G-255, North Lobby Washington, D.C. 20002

Telephone: [202] 502-2800 Fax: [202] 502-2888

http://www.jpml.uscourts.gov

February 13, 2006

Brian Bishop, Clerk U.S. Court of Federal Claims 105A Howard T. Markey National Courts Bldg. 717 Madison Place, N.W. Washington, DC 20439

Re: MDL-1634 -- In re Peanut Crop Insurance Litigation

Texas Peanut Farmers, et al. v. U.S.A., United States Court of Federal Claims, C.A. No. 1:03-445

Dear Mr. Bishop:

I am enclosing a certified copy of an order filed today by the Panel in the above matter.

Very truly,

Michael J. Beck Clerk of the Panel

**Enclosure** 

cc:

Transferee Judge: Judge Malcolm J. Howard

Transferor Judge: Judge Nancy B. Firestone

Docket No. 03-4450

## UNITED STATES COURT OF FEDERAL CLAIMS

## **MEMORANDUM**

FROM:	JUDGE \\CLERK'S OFFI	CE CE
The	attached was receiv	ed on B-Al-OC
and the fon	owing defect(s) is/ar	e noted:
1		be filed by [Rule 7.2]
2.	shows servi	[Rule 5.1] is not signed and/or dated; ice on wrong attorney or of wrong item; ned to each document or copy
3	Not signed by the	e attorney of record [Rules 11 and 83.1(c)(2)]
4	Does not comply	with the provisions of Rule:
	5.2(a)(1)(A)	Re: table of contents or index to appendix is missing (or in
·	5.2(a)(1)(G)	wrong location)  Re: index to appendix is to be located in both the front of
	5.2(b)	the brief and in front of the appendix
***	5.3(c)	Re: length of briefs or memorandum  Re: binding
	5.3(d)	Re: original/copies missing
-	5.3(g)	Re: Judge's name on all filings
	7(b)	Re: brief, supporting memorandum, affidavits shall be attached to motion
	24(c)	Re: motion to be accompanied by a pleading
	56(h)	Re: proposed findings and/or response to proposed findings is missing or not a separate document
	56.1(b)	Re: statement of facts and/or counter-statement of facts is missing or not a separate document
	77.1(a)	Re: improper use of the night box
	83.1(c)(1)	Re: one attorney for a party; attorney to be an individual not a firm
	<del></del>	Re:
5. 6. 7.	No provision in the	)/declaration(s) is/are missing Rules (or court order) for the filing of this item designated as an <i>ECF</i> case.
o		

Deputy Clerk